

R. Sankarappan Vs. Elango

R. Sankarappan Vs. Elango

SooperKanoon Citation : sooperkanoon.com/1107782

Court : Tamil Nadu State Consumer Disputes Redressal Commission SCDRC
Chennai

Decided On : Dec-14-2012

Judge : Honourable Thiru J. Jayaram, M.a., M.L., Presiding Judicial Member
& Thiru S. Sambandam, B.SC., Member

Appeal No. : F.A. 206 of 2011 (Against Order in C.C.963/2009 on the file of the
DCDRF, Chennai [South])

Appellant : R. Sankarappan

Respondent : Elango

Judgement :

(This appeal coming before us for final hearing on 12-12-2012 and on hearing the arguments of the appellant and upon perusing the material records, this Commission made the following Order:)

J. JAYARAM, JUDICIAL MEMBER

This appeal is filed by the complainant against the order of the District Consumer Disputes Redressal Forum, Chennai [South] in C.C.963/2009, dated 25-01-2011, dismissing the complaint.

2. The case of the complainant is that, he purchased a packet of Aavin Milk from the store of the opposite party and the MRP printed on the milk packet was

Rs.10.25ps., and the complainant gave Rs.11/- to the opposite party, but the opposite party refused to return the balance of Rs.0.75ps., and hence the complaint against the opposite party alleging deficiency in service, and praying for direction to the opposite party to pay a some of Rs.1,025/- towards expenses for the lawyers notice and to return Rs.0.75ps. received from the complainant and Rs.10,000/- for mental agony and harassmt suffered by the complainant.

3. According to the opposite party, the complainant never purchased any milk packet from him and the opposite party did not sell any milk packet to him, much less for more than the MRP. The fact remains that the complainant being an advocate, compelled the opposite party to carry the goods to his house in the same street and on refusal by the opposite party, the complainant has taken revenge against the opposite party by filing a false complaint.

4. The District Forum considered the rival contentions and dismissed the complaint holding that there is no deficiency in service on the part of the opposite party. Aggrieved by this order, the complainant has preferred this appeal.

5. The contention of the appellant / complainant is that, he purchased the milk packet from the store of the respondent / opposite party by paying Rs.11/- against the MRP rate of Rs.10.25ps. and this amounts to deficiency in service on the part of the opposite party. The opposite party has denied this contending that the complainant never purchased any milk packet from his shop and for personal reason the complainant has filed this false complaint.

6. The District Forum has held that no deficiency in service is established by the complainant against the opposite party as the complainant has not produced any receipt for purchase of milk packet from the opposite partys shop. It is pertinent to note that there is averment in the complaint that he purchased milk packet from the opposite partys shop and that the opposite party sold milk packet to the complainant on a higher rate more than the MRP (Maximum Retail Price) of Rs.10.25, and that the opposite party refused to give the balance of Rs.0.75ps. to the complainant. When the factum of sale of milk to the complainant itself is denied by the opposite party, the complainant is bound to adduce evidence to the effect that the opposite party sold milk packet to him and to substantiate this, the

receipt for purchase of milk packet ought to be produced. In the absence of evidence, at least there should be averment in the complaint as to why receipt was not produced or that the complainant demanded receipt from the opposite party for the sale of milk packet and that the opposite party refused to issue receipt. In the absence of any such averment and proper evidence, we cannot conclude that the opposite party sold milk to the complainant for a higher price over and above the MRP.

7. For the foregoing reasons, we hold that no unfair trade practice or deficiency in service against the opposite party is established by the complainant and accordingly the complaint is liable to be dismissed.

8. The District Forum has rightly dismissed the complaint for valid reasons. We agree with the finding and the decision of the District Forum and there is no merit in the appeal.

9. In the result, the appeal is dismissed confirming the order of the District Forum dismissing the complaint. No order as to costs in the appeal.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com